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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/754,161	01/09/2004	Robert Daniel Burn III	15436.249.41.1	7487
22913	7590	01/20/2006	EXAMINER	
WORKMAN NYDEGGER (F/K/A WORKMAN NYDEGGER & SEELEY) 60 EAST SOUTH TEMPLE 1000 EAGLE GATE TOWER SALT LAKE CITY, UT 84111			KIM, ELLEN E	
			ART UNIT	PAPER NUMBER
			2874	
DATE MAILED: 01/20/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	Application No. 10/754,161	Applicant(s) BURN, ROBERT DANIEL	
	Examiner Ellen Kim	Art Unit 2874	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-21 is/are pending in the application.  
     4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 16-21 is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
     a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |  |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>8/04</u> . | 6) <input type="checkbox"/> Other: ____  |

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

**Claims 1 and 2 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Ware [USPAT 3,508,835].**

Ware discloses a device comprising:

A base 17;

A component mount [substrate having the grooves 76];

An alignment carriage 12 adjustable engaged with the base;

At least one rotation paddle 20 attached to the alignment carriage; and

Means [see fig. 2] for engaging the at least one rotation paddle to selectively rotate the alignment carriage.

Note that it has been held that a recitation with respect to the manner in which a claimed apparatus is intended to be employed, such as an optical device alignment mounting stage does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. *Ex parte Masham*, 2 USPQ2d 1647 (1987).

**Claims 1-3, 5, 6, 9-15 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Hayashi et al [USPAT 4,598,242].**

Hayashi et al disclose a device comprising:

A base [not shown, see column 2, line 65];

A component mount 9;

An alignment carriage 7, 4, 1 adjustable engaged with the base;

At least one rotation paddle 2, 5, 8 attached to the alignment carriage; and

Means for engaging the at least one rotation paddle to selectively rotate the alignment carriage.

Note that it has been held that a recitation with respect to the manner in which a claimed apparatus is intended to be employed, such as an optical device alignment mounting stage does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. Ex parte Masham, 2 USPQ2d 1647 (1987).

In re claim 3, Hayashi et al show a means for engaging a pitch rotation paddle 2, a means for engaging a roll rotation paddle 8, and a means for engaging a pitch rotation paddle 5. Note that Hayashi et al clearly teach at column 2, lines 65-end that motor [rotational movement] or like can be utilized.

In re claim 5, the linear actuators are clearly shown in fig. 1 by arrows indicated next to each paddles.

In re claim 14, Applicant fails to define the definition of the "translation stage" in the claim, therefore, for the purpose of examination, any additional layer, which is in communication with the base. The layer 9 is considered as a translation stage.

In re claim 15, Applicant fails to define the definition of the "automatically controlled" in the claim, therefore, for the purpose of examination, any control is considered as automatic control.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 4, 7, and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hayashi et al.

In re claim 4, Hayashi et al disclose every aspect of claimed invention except for the screws.

Official Notice is taken that employing a screw for rotational paddle is old and well known in the art. See In Re Malcolm 1942 C.D. 589:543 O.G. 440 MPEP 706.02 (a).

Therefore, it would have been obvious to the ordinary skilled person in the art at the time the invention was made to modify Hayashi et al device to include the screws for the purpose of solid engagement between two mechanical structures.

In re claims 7 and 8, Hayashi et al disclose every aspect of claimed invention except for the spherical shape/metallic contact points of the portion of the alignment carriage that engages the base.

Applicant fails to establish the criticality of the shape of the portion/metallic contact points.

Therefore, it would have been obvious to the ordinary skilled person in the art at the time the invention was made to modify the Hayashi et al's device to include the spherical shape/metallic contact points of the portion of the alignment carriage that engages the base for the purpose of providing mating surface of the alignment carriage and the base. See *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459. *In re Leshin*, 125 USPQ 416.

### ***Allowable Subject Matter***

Claims 16-21 are allowed.

The following is a statement of reasons for the indication of allowable subject matter: the prior art does not disclose or suggest an optical device alignment mounting stage comprising all the specific components with the specific combination as set forth in claims.

### ***Conclusion***

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for

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published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

For all official patent application related correspondence for organizations reporting to the Commissioner of Patents:

- Correspondence that is transmitted by facsimile must be directed to the central facsimile number, (703) 872-9306.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Further references of interest are cited on Form PLO-892, which is attachment to this office action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ellen Kim whose telephone number is (571) 272-2349. The examiner can normally be reached on Monday through Thursday.

*Ellen Kim*

Ellen E. Kim  
Primary Examiner  
January 4, 2006/EK